

Part 5 Filing

70A-9a-501 Filing office.

- (1) Except as otherwise provided in Subsection (2), if the local law of this state governs perfection of a security interest or agricultural lien, the office in which to file a financing statement to perfect the security interest or agricultural lien is:
 - (a) the office designated for the filing or recording of a record of a mortgage on the related real property, if:
 - (i) the collateral is as-extracted collateral or timber to be cut; or
 - (ii) the financing statement is filed as a fixture filing and the collateral is goods that are or are to become fixtures; or
 - (b) the Division of Corporations and Commercial Code, in all other cases, including a case in which the collateral is goods that are or are to become fixtures and the financing statement is not filed as a fixture filing.
- (2) The office in which to file a financing statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is the Division of Corporations and Commercial Code. The financing statement also constitutes a fixture filing as to the collateral indicated in the financing statement which is or is to become fixtures.

Enacted by Chapter 252, 2000 General Session

70A-9a-502 Contents of financing statement -- Record of mortgage as financing statement -- Time of filing financing statement.

- (1) Subject to Subsection (2), a financing statement is sufficient only if it:
 - (a) provides the name of the debtor;
 - (b) provides the name of the secured party or a representative of the secured party; and
 - (c) indicates the collateral covered by the financing statement.
- (2) Except as otherwise provided in Subsection 70A-9a-501(2), to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy Subsection (1) and also:
 - (a) indicate that it covers this type of collateral;
 - (b) indicate that it is to be filed for record in the real property records;
 - (c) provide a legal description of the real property to which the collateral is related; and
 - (d) if the debtor does not have an interest of record in the real property, provide the name of a record owner.
- (3) A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:
 - (a) the record indicates the goods or accounts that it covers;
 - (b) the goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;
 - (c) the record satisfies the requirements for a financing statement in this section, but:
 - (i) the record need not indicate that it is to be filed in the real property records; and

- (ii) the record sufficiently provides the name of a debtor who is an individual if it provides the individual name of the debtor or the surname and first personal name of the debtor, even if the debtor is an individual to whom Subsection 70A-9a-503(1)(d) applies; and
- (d) the record is recorded.
- (4) A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.
- (5)
 - (a) The requirements of Title 57, Real Estate, do not apply to a financing statement filed or recorded in a filing office described in Subsection 70A-9a-501(1)(a) that:
 - (i) covers as-extracted collateral or timber to be cut; or
 - (ii)
 - (A) is filed as a fixture filing; and
 - (B) covers goods that are or are to become fixtures.
 - (b) For purposes of Subsection (5)(a), the requirements of Title 57, Real Estate, include requirements related to:
 - (i) execution;
 - (ii) acknowledgment;
 - (iii) certification; and
 - (iv) originality.

Amended by Chapter 225, 2013 General Session

70A-9a-503 Name of debtor and secured party.

- (1) A financing statement sufficiently provides the name of the debtor:
 - (a) except as otherwise provided in Subsection (1)(c), if the debtor is a registered organization or the collateral is held in a trust that is a registered organization, only if the financing statement provides the name that is stated to be the registered organization's name on the public organic record most recently filed with or issued or enacted by the registered organization's jurisdiction of organization which purports to state, amend, or restate the registered organization's name;
 - (b) subject to Subsection (6), if the collateral is being administered by the personal representative of a decedent, only if the financing statement provides, as the name of the debtor, the name of the decedent and, in a separate part of the financing statement, indicates that the collateral is being administered by a personal representative;
 - (c) if the collateral is held in a trust that is not a registered organization, only if the financing statement:
 - (i) provides, as the name of the debtor:
 - (A) if the organic record of the trust specifies a name for the trust, the name specified; or
 - (B) if the organic record of the trust does not specify a name for the trust, the name of the settlor or testator; and
 - (ii) in a separate part of the financing statement:
 - (A) if the name provided in accordance with Subsection (1)(c)(i)(A), indicates the collateral is held in a trust; or
 - (B) if the name is provided in accordance with Subsection (1)(c)(i)(B), provides additional information sufficient to distinguish the trust from other trusts having one or more of the same settlors or the same testator and indicates that the collateral is held in a trust, unless the additional information so indicates;

- (d) subject to Subsection (7), if the debtor is an individual to whom the state Driver License Division of the Department of Public Safety has issued a driver license that has not expired, or if the debtor does not have an unexpired driver license, an individual to whom the state Driver License Division of the Department of Public Safety has issued an unexpired identification card, only if the financing statement provides the name of the individual which is indicated on the driver license or identification card;
- (e) if the debtor is an individual to whom Subsection (1)(d) does not apply, only if the financing statement provides the individual name of the debtor or the surname and first personal name of the debtor; and
- (f) in other cases:
 - (i) if the debtor has a name, only if the financing statement provides the organizational name of the debtor; and
 - (ii) if the debtor does not have a name, only if it provides the names of the partners, members, associates, or other persons comprising the debtor, in a manner that each name provided would be sufficient if the person named were the debtor.
- (2) A financing statement that provides the name of the debtor in accordance with Subsection (1) is not rendered ineffective by the absence of:
 - (a) a trade name or other name of the debtor; or
 - (b) unless required under Subsection (1)(f)(ii), names of partners, members, associates, or other persons comprising the debtor.
- (3) A financing statement that provides only the debtor's trade name does not sufficiently provide the name of the debtor.
- (4) Failure to indicate the representative capacity of a secured party or representative of a secured party does not affect the sufficiency of a financing statement.
- (5) A financing statement may provide the name of more than one debtor and the name of more than one secured party.
- (6) The name of the decedent indicated on the order appointing the personal representative of the decedent issued by the court having jurisdiction over the collateral is sufficient as the "name of the decedent" under Subsection (1)(b).
- (7) If this state has issued to an individual more than one driver license or identification card of a kind described in Subsection (1)(d), the one that was issued most recently is the one to which Subsection (1)(d) refers.
- (8) In this section, the "name of the settlor or testator" means:
 - (a) if the settlor is a registered organization, the name that is stated to be the settlor's name on the public organic record most recently filed with or issued or enacted by the settlor's jurisdiction of organization which purports to state, amend, or restate the settlor's name; or
 - (b) in the other cases, the name of the settlor or testator indicated in the trust's organic record.

Amended by Chapter 225, 2013 General Session

70A-9a-504 Indication of collateral.

A financing statement sufficiently indicates the collateral that it covers if the financing statement provides:

- (1) a description of the collateral pursuant to Section 70A-9a-108; or
- (2) an indication that the financing statement covers all assets or all personal property.

Enacted by Chapter 252, 2000 General Session

70A-9a-505 Filing and compliance with other statutes and treaties for consignments, leases, other bailments, and other transactions.

- (1) A consignor, lessor, or other bailor of goods, a licensor, or a buyer of a payment intangible or promissory note may file a financing statement, or may comply with a statute or treaty described in Subsection 70A-9a-311(1), using the terms "consignor," "consignee," "lessor," "lessee," "bailor," "bailee," "licensor," "licensee," "owner," "registered owner," "buyer," "seller," or words of similar import, instead of the terms "secured party" and "debtor."
- (2) This part applies to the filing of a financing statement under Subsection (1) and, as appropriate, to compliance that is equivalent to filing a financing statement under Subsection 70A-9a-311(2), but the filing or compliance is not of itself a factor in determining whether the collateral secures an obligation. If it is determined for another reason that the collateral secures an obligation, a security interest held by the consignor, lessor, bailor, licensor, owner, or buyer which attaches to the collateral is perfected by the filing or compliance.

Enacted by Chapter 252, 2000 General Session

70A-9a-506 Effect of errors or omissions.

- (1) A financing statement substantially satisfying the requirements of this part is effective, even if it has minor errors or omissions, unless the errors or omissions make the financing statement seriously misleading.
- (2) Except as otherwise provided in Subsection (3), a financing statement that fails sufficiently to provide the name of the debtor in accordance with Subsection 70A-9a-503(1) is seriously misleading.
- (3) If a search of the records of the filing office under the debtor's correct name, using the filing office's standard search logic, if any, would disclose a financing statement that fails sufficiently to provide the name of the debtor in accordance with Subsection 70A-9a-503(1), the name provided does not make the financing statement seriously misleading.
- (4) For purposes of Subsection 70A-9a-508(2), the "debtor's correct name" in Subsection (3) means the correct name of the new debtor.

Enacted by Chapter 252, 2000 General Session

70A-9a-507 Effect of certain events on effectiveness of financing statement.

- (1) A filed financing statement remains effective with respect to collateral that is sold, exchanged, leased, licensed, or otherwise disposed of and in which a security interest or agricultural lien continues, even if the secured party knows of or consents to the disposition.
- (2) Except as otherwise provided in Subsection (3) and Section 70A-9a-508, a financing statement is not rendered ineffective if, after the financing statement is filed, the information provided in the financing statement becomes seriously misleading under Section 70A-9a-506.
- (3) If the name that a filed financing statement provides for a debtor becomes insufficient as the name of the debtor under Subsection 70A-9a-503(1) so that the financing statement becomes seriously misleading under Section 70A-9a-506:
 - (a) the financing statement is effective to perfect a security interest in collateral acquired by the debtor before, or within four months after, the filed financing statement becomes seriously misleading; and
 - (b) the financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the filed financing statement becomes seriously misleading, unless an amendment to the financing statement which renders the financing

statement not seriously misleading is filed within four months after the financing statement became seriously misleading.

Amended by Chapter 225, 2013 General Session

70A-9a-508 Effectiveness of financing statement if new debtor becomes bound by security agreement.

- (1) Except as otherwise provided in this section, a filed financing statement naming an original debtor is effective to perfect a security interest in collateral in which a new debtor has or acquires rights to the extent that the financing statement would have been effective had the original debtor acquired rights in the collateral.
- (2) If the difference between the name of the original debtor and that of the new debtor causes a filed financing statement that is effective under Subsection (1) to be seriously misleading under Section 70A-9a-506:
 - (a) the financing statement is effective to perfect a security interest in collateral acquired by the new debtor before, and within four months after, the new debtor becomes bound under Subsection 70A-9a-203(4); and
 - (b) the financing statement is not effective to perfect a security interest in collateral acquired by the new debtor more than four months after the new debtor becomes bound under Subsection 70A-9a-203(4) unless an initial financing statement providing the name of the new debtor is filed before the expiration of that time.
- (3) This section does not apply to collateral as to which a filed financing statement remains effective against the new debtor under Subsection 70A-9a-507(1).

Enacted by Chapter 252, 2000 General Session

70A-9a-509 Persons entitled to file a record.

- (1) A person may file an initial financing statement, amendment that adds collateral covered by a financing statement, or amendment that adds a debtor to a financing statement only if:
 - (a) the debtor authorizes the filing in an authenticated record or pursuant to Subsection (2) or (3); or
 - (b) the person holds an agricultural lien that has become effective at the time of filing and the financing statement covers only collateral in which the person holds an agricultural lien.
- (2) By authenticating or becoming bound as debtor by a security agreement, a debtor or new debtor authorizes the filing of an initial financing statement, and an amendment, covering:
 - (a) the collateral described in the security agreement; and
 - (b) property that becomes collateral under Subsection 70A-9a-315(1)(b), whether or not the security agreement expressly covers proceeds.
- (3) By acquiring collateral in which a security interest or agricultural lien continues under Subsection 70A-9a-315(1)(a), a debtor authorizes the filing of an initial financing statement, and an amendment, covering the collateral and property that becomes collateral under Subsection 70A-9a-315(1)(b).
- (4) A person may file an amendment other than an amendment that adds collateral covered by a financing statement or an amendment that adds a debtor to a financing statement only if:
 - (a) the secured party of record authorizes the filing; or
 - (b) the amendment is a termination statement for a financing statement as to which the secured party of record has failed to file or send a termination statement as required by Subsection

70A-9a-513(1) or (3), the debtor authorizes the filing, and the termination statement indicates that the debtor authorized it to be filed.

- (5) If there is more than one secured party of record for a financing statement, each secured party of record may authorize the filing of an amendment under Subsection (4).

Enacted by Chapter 252, 2000 General Session

70A-9a-510 Effectiveness of filed record.

- (1) A filed record is effective only to the extent that it was filed by a person that may file it under Section 70A-9a-509 or by the filing office under Section 70A-9a-513.5.
- (2) A record authorized by one secured party of record does not affect the financing statement with respect to another secured party of record.
- (3) A continuation statement that is not filed within the six-month period prescribed by Subsection 70A-9a-515(4) is ineffective.

Amended by Chapter 228, 2015 General Session

70A-9a-511 Secured party of record.

- (1) A secured party of record with respect to a financing statement is a person whose name is provided as the name of the secured party or a representative of the secured party in an initial financing statement that has been filed. If an initial financing statement is filed under Subsection 70A-9a-514(1), the assignee named in the initial financing statement is the secured party of record with respect to the financing statement.
- (2) If an amendment of a financing statement which provides the name of a person as a secured party or a representative of a secured party is filed, the person named in the amendment is a secured party of record. If an amendment is filed under Subsection 70A-9a-514(2), the assignee named in the amendment is a secured party of record.
- (3) A person remains a secured party of record until the filing of an amendment of the financing statement which deletes the person.

Enacted by Chapter 252, 2000 General Session

70A-9a-512 Amendment of financing statement.

- (1) Subject to Section 70A-9a-509, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or, subject to Subsection (5), otherwise amend the information provided in, a financing statement by filing an amendment that:
- (a) identifies, by its file number, the initial financing statement to which the amendment relates; and
- (b) if the amendment relates to an initial financing statement filed or recorded in a filing office described in Subsection 70A-9a-501(1)(a), provides:
- (i)
- (A) the entry number of the initial financing statement; or
- (B) the book and page where the initial financing statement was filed or recorded; and
- (ii) the information specified in Subsection 70A-9a-502(2).
- (2) Except as otherwise provided in Section 70A-9a-515, the filing of an amendment does not extend the period of effectiveness of the financing statement.
- (3) A financing statement that is amended by an amendment that adds collateral is effective as to the added collateral only from the date of the filing of the amendment.

- (4) A financing statement that is amended by an amendment that adds a debtor is effective as to the added debtor only from the date of the filing of the amendment.
- (5) An amendment is ineffective to the extent it:
 - (a) purports to delete all debtors and fails to provide the name of a debtor to be covered by the financing statement; or
 - (b) purports to delete all secured parties of record and fails to provide the name of a new secured party of record.

Enacted by Chapter 252, 2000 General Session

70A-9a-513 Termination statement.

- (1) A secured party shall cause the secured party of record for a financing statement to file a termination statement for the financing statement if the financing statement covers consumer goods and:
 - (a) there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or
 - (b) the debtor did not authorize the filing of the initial financing statement.
- (2) To comply with Subsection (1), a secured party shall cause the secured party of record to file the termination statement:
 - (a) within one month after there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or
 - (b) if earlier, within 20 days after the secured party receives an authenticated demand from a debtor.
- (3) In cases not governed by Subsection (1), within 20 days after a secured party receives an authenticated demand from a debtor, the secured party shall cause the secured party of record for a financing statement to send to the debtor a termination statement for the financing statement or file the termination statement in the filing office if:
 - (a) except in the case of a financing statement covering accounts or chattel paper that has been sold or goods that are the subject of a consignment, there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value;
 - (b) the financing statement covers accounts or chattel paper that has been sold but as to which the account debtor or other person obligated has discharged its obligation;
 - (c) the financing statement covers goods that were the subject of a consignment to the debtor but are not in the debtor's possession; or
 - (d) the debtor did not authorize the filing of the initial financing statement.
- (4) Except as otherwise provided in Section 70A-9a-510, upon the filing of a termination statement with the filing office, the financing statement to which the termination statement relates ceases to be effective. Except as otherwise provided in Section 70A-9a-510, for purposes of Subsections 70A-9a-519(7), 70A-9a-522(1), and 70A-9a-525(3), the filing with the filing office of a termination statement relating to a financing statement that indicates that the debtor is a transmitting utility also causes the effectiveness of the financing statement to lapse.

Enacted by Chapter 252, 2000 General Session

70A-9a-513.5 Termination of wrongfully filed financing statement -- Reinstatement.

- (1) As used in this section:

- (a) "Established filer" means a person that:
 - (i) regularly causes records to be communicated to the filing office for filing and has provided the filing office with current contact information and information sufficient to establish its identity; or
 - (ii) satisfies either of the following conditions:
 - (A) the filing office has issued the person credentials for access to online filing services; or
 - (B) the person has established an account for payment of filing fees, regardless of whether the account is used in a particular transaction.
- (b) "Filing office" means the same as that term is defined in Section 70A-9a-102, except that it does not include a county recorder office.
- (2) A person identified as debtor in a filed financing statement may deliver to the filing office the debtor's notarized affidavit, signed under penalty of perjury, that identifies the financing statement by file number, indicates the affiant's mailing address, and states that the affiant believes that the filed record identifying the affiant as debtor was not authorized and was caused to be communicated to the filing office with the intent to harass or defraud the affiant. The filing office shall adopt a form of affidavit for use under this section. The filing office may reject an affidavit described in this Subsection (2) if:
 - (a) the affidavit is incomplete; or
 - (b) the filing office reasonably believes that the affidavit was communicated to the filing office with the intent to harass or defraud, or for any other unlawful purpose.
- (3) Subject to Subsection (10), if an affidavit is delivered to the filing office under Subsection (2), the filing office shall promptly file a termination statement with respect to the financing statement identified in the affidavit. The termination statement must identify by its file number the initial financing statement to which it relates and must indicate that it was filed pursuant to this section. A termination statement filed under this Subsection (3) is not effective until 14 days after it is filed.
- (4) The filing office may not charge a fee for the filing of an affidavit under Subsection (2) or a termination statement under Subsection (3). The filing office may not return any fee paid for filing the financing statement identified in the affidavit, whether or not the financing statement is reinstated under Subsection (7).
- (5) On the same day that a filing office files a termination statement under Subsection (3), it shall send to the secured party of record for the financing statement to which the termination statement relates a notice stating that the termination statement has been filed and will become effective 14 days after filing. The notice shall be sent by mail to the address provided for the secured party of record in the financing statement or by electronic mail to the electronic mail address provided by the secured party of record, if any.
- (6)
 - (a) A secured party that believes in good faith that the filed record identified in an affidavit delivered to the filing office under Subsection (2) was authorized and was not caused to be communicated to the filing office with the intent to harass or defraud the affiant may:
 - (i) before the termination statement takes effect under Subsection (3), request the filing office to review the filed record concerning whether the filed record was filed with the intent to harass or defraud; or
 - (ii) regardless of whether the affiant seeks a review under Subsection (6)(a)(i), file an action against the filing office seeking reinstatement of the financing statement to which the filed record relates.

- (b) Within 10 days after being served with process in an action under this Subsection (6), the filing office shall file a notice indicating that the action has been commenced. The notice shall indicate the file number of the initial financing statement to which it relates.
- (c) If the affiant is not named as a defendant in the action described in Subsection (6)(a)(ii), the secured party shall send a copy of the complaint to the affiant at the address indicated in the affidavit. The exclusive venue for the action shall be in the Third District Court. A party may petition the court to consider the matter on an expedited basis.
- (d) An action under this Subsection (6) must be filed before the expiration of six months after the date on which the termination statement filed under Subsection (3) becomes effective.
- (7) If, in an action under Subsection (6), the court determines that the financing statement should be reinstated, the filing office shall promptly file a record that identifies by its file number the initial financing statement to which the record relates and indicates that the financing statement has been reinstated.
- (8) Upon the filing of a record reinstating a financing statement under Subsection (7), the effectiveness of the financing statement is reinstated and the financing statement shall be considered never to have been terminated under this section. A continuation statement filed as provided in Subsection 70A-9a-515(4) after the effective date of a termination statement filed under Subsection (3) or (10) becomes effective if the financing statement is reinstated.
- (9) If, in an action under Subsection (6), the court determines that the filed record identified in an affidavit delivered to the filing office under Subsection (2) was unauthorized and was caused to be communicated to the filing office with the intent to harass or defraud the affiant, the filing office and the affiant may recover from the secured party that filed the action the costs and expenses, including reasonable attorney fees, that the filing office and the affiant incurred in the action. This recovery is in addition to any recovery to which the affiant is entitled under Section 70A-9a-625.
- (10) If an affidavit delivered to a filing office under Subsection (2) relates to a filed record communicated to the filing office by an established filer, the filing office shall promptly send to the secured party of record a notice stating that the affidavit has been delivered to the filing office and that the filing office is conducting an administrative review to determine whether the record was unauthorized and was caused to be communicated with the intent to harass or defraud the affiant. The notice shall be sent by mail to the address provided for the secured party in the financing statement or sent by electronic mail to the electronic mail address provided by the secured party of record, if any, and a copy shall be sent in the same manner to the affiant. The administrative review shall be conducted on an expedited basis and the filing office may require the affiant and the secured party of record to provide any additional information that the filing office considers appropriate. If the filing office concludes that the record was not authorized and was caused to be communicated with the intent to harass or defraud the affiant, the filing office shall promptly file a termination statement under Subsection (3) that will be effective immediately and send to the secured party of record the notice required by Subsection (5). The secured party may thereafter file an action for reinstatement under Subsection (6), and Subsections (7) through (9) are applicable.

Enacted by Chapter 228, 2015 General Session

70A-9a-514 Assignment of powers of secured party of record.

- (1) Except as otherwise provided in Subsection (3), an initial financing statement may reflect an assignment of all of the secured party's power to authorize an amendment to the financing

statement by providing the name and mailing address of the assignee as the name and address of the secured party.

- (2) Except as otherwise provided in Subsection (3), a secured party of record may assign of record all or part of its power to authorize an amendment to a financing statement by filing in the filing office an amendment of the financing statement which:
 - (a) identifies, by its file number, the initial financing statement to which it relates;
 - (b) provides the name of the assignor; and
 - (c) provides the name and mailing address of the assignee.
- (3) An assignment of record of a security interest in a fixture covered by a record of a mortgage which is effective as a financing statement filed as a fixture filing under Subsection 70A-9a-502(3) may be made only by an assignment of record of the mortgage in the manner provided by law of this state other than this title.

Enacted by Chapter 252, 2000 General Session

70A-9a-515 Duration and effectiveness of financing statement -- Effect of lapsed financing statement.

- (1) Except as otherwise provided in Subsections (2), (5), (6), and (7), a filed financing statement is effective for a period of five years after the date of filing.
- (2) Except as otherwise provided in Subsections (5), (6), and (7), an initial financing statement filed in connection with a public-finance transaction or manufactured-home transaction is effective for a period of 30 years after the date of filing if it indicates that it is filed in connection with a public-finance transaction or manufactured-home transaction.
- (3) The effectiveness of a filed financing statement lapses on the expiration of the period of its effectiveness unless before the lapse a continuation statement is filed pursuant to Subsection (4). Upon lapse, a financing statement ceases to be effective and any security interest or agricultural lien that was perfected by the financing statement becomes unperfected, unless the security interest is perfected otherwise. If the security interest or agricultural lien becomes unperfected upon lapse, it is deemed never to have been perfected as against a purchaser of the collateral for value.
- (4) A continuation statement may be filed only within six months before the expiration of the five-year period specified in Subsection (1) or the 30-year period specified in Subsection (2), whichever is applicable.
- (5) Except as otherwise provided in Section 70A-9a-510, upon timely filing of a continuation statement, the effectiveness of the initial financing statement continues for a period of five years commencing on the day on which the financing statement would have become ineffective in the absence of the filing. Upon the expiration of the five-year period, the financing statement lapses in the same manner as provided in Subsection (3), unless, before the lapse, another continuation statement is filed pursuant to Subsection (4). Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the initial financing statement.
- (6) If a debtor is a transmitting utility and a filed initial financing statement so indicates, the financing statement is effective until a termination statement is filed.
- (7) A record of a mortgage that is effective as a financing statement filed as a fixture filing under Subsection 70A-9a-502(3) remains effective as a financing statement filed as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real property.

Amended by Chapter 225, 2013 General Session

70A-9a-516 What constitutes filing -- Effectiveness of filing.

- (1) Except as otherwise provided in Subsection (2) or (5), communication of a record to a filing office and tender of the filing fee or acceptance of the record by the filing office constitutes filing.
- (2) Filing does not occur with respect to a record that a filing office refuses to accept because:
 - (a) the record is not communicated by a method or medium of communication authorized by the filing office;
 - (b) an amount equal to or greater than the applicable filing fee is not tendered;
 - (c) the filing office is unable to index the record because:
 - (i) in the case of an initial financing statement, the record does not provide a name for the debtor;
 - (ii) in the case of an amendment or information statement, the record:
 - (A) does not identify the initial financing statement as required by Section 70A-9a-512 or 70A-9a-518, as applicable; or
 - (B) identifies an initial financing statement whose effectiveness has lapsed under Section 70A-9a-515;
 - (iii) in the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's surname; or
 - (iv) in the case of a record filed or recorded in the filing office described in Subsection 70A-9a-501(1)(a), the record does not provide a sufficient description of the real property to which it relates;
 - (d) in the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;
 - (e) in the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:
 - (i) provide a mailing address for the debtor; or
 - (ii) indicate whether the name provided as the name of the debtor is the name of an individual or an organization;
 - (f) in the case of an assignment reflected in an initial financing statement under Subsection 70A-9a-514(1) or an amendment filed under Subsection 70A-9a-514(2), the record does not provide a name and mailing address for the assignee;
 - (g) in the case of a continuation statement, the record is not filed within the six-month period prescribed by Subsection 70A-9a-515(4); or
 - (h) in the case of an initial financing statement or an amendment that provides a name of a debtor that was not previously provided in the financing statement to which the amendment relates, the record was not communicated to the filing office, as defined in Section 70A-9a-513.5, by an established filer, as defined in Section 70A-9a-513.5, and the filing office reasonably believes that the record was caused to be communicated to the filing office with the intent to harass or defraud the person identified as debtor or for another unlawful purpose.
- (3) Except as provided in Section 70A-9a-513.5, the filing office has no duty to form a belief as to whether a record was caused to be communicated with the intent to harass or defraud the person identified as debtor or for another unlawful purpose and has no duty to investigate or ascertain facts relevant to whether the intent or purpose was present.

- (4) For purposes of Subsection (2):
 - (a) a record does not provide information if the filing office is unable to read or decipher the information; and
 - (b) a record that does not indicate that it is an amendment or identify an initial financing statement to which it relates, as required by Section 70A-9a-512, 70A-9a-514, or 70A-9a-518, is an initial financing statement.
- (5) A filing office may refuse to accept a record for filing, and if it does so, filing does not occur with respect to the record, because:
 - (a) the debtor is an individual and the debtor's name contains unusually placed and apparently unnecessary punctuation, symbols, or other nonalphabetic characters;
 - (b) the record, in the collateral description or elsewhere, including an attachment, discloses personally identifying information such as a Social Security number, driver license number, identification card number, bank account number, credit or debit card account number, date of birth, or place of birth; or
 - (c) the debtor is an individual and the record indicates that the debtor is a transmitting utility.
- (6) A record that is communicated to the filing office with tender of the filing fee, but which the filing office refuses to accept for a reason other than one set forth in Subsection (2) or (5), is effective as a filed record except as against a purchaser of the collateral which gives value in reasonable reliance upon the absence of the record from the files.
- (7) A record that the filing office, as defined in Section 70A-9a-513.5, initially refuses to accept under Subsection (2)(h) but that it later accepts after it receives additional information is effective as if the filing office had not initially refused to accept the record except as against a purchaser of the collateral that gives value in reasonable reliance upon the absence of the record from the files.

Amended by Chapter 228, 2015 General Session

70A-9a-517 Effect of indexing errors.

The failure of the filing office to index a record correctly does not affect the effectiveness of the filed record.

Enacted by Chapter 252, 2000 General Session

70A-9a-518 Claim concerning inaccurate or wrongfully filed record.

- (1) A person may file in the filing office an information statement with respect to a record indexed there under the person's name if the person believes that the record is inaccurate or was wrongfully filed.
- (2) An information statement under Subsection (1) must:
 - (a) identify the record to which it relates by the file number assigned to the initial financing statement to which the record relates;
 - (b) indicate that it is an information statement; and
 - (c) provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the record should be amended to cure any inaccuracy or provide the basis for the person's belief that the record was wrongfully filed.
- (3) A person may file in the filing office an information statement with respect to a record filed there if the person is a secured party of record with respect to the financing statement to which the record relates and believes that the person that filed the record was not entitled to do so under Subsection 70A-9a-509(4).

- (4) An information statement under Subsection (3) must:
 - (a) identify the record to which it relates by the file number assigned to the initial financing statement to which the record relates;
 - (b) indicate that it is an information statement; and
 - (c) provide the basis for the person's belief that the person that filed the record was not entitled to do so under Subsection 70A-9a-509(4).
- (5) The filing of an information statement does not affect the effectiveness of an initial financing statement or other filed record.

Amended by Chapter 225, 2013 General Session

70A-9a-519 Numbering, maintaining, and indexing records -- Communicating information provided in records.

- (1) For each record filed in a filing office, the filing office shall:
 - (a) assign a unique number to the filed record;
 - (b) create a record that bears the number assigned to the filed record and the date and time of filing;
 - (c) maintain the filed record for public inspection; and
 - (d) index the filed record in accordance with Subsections (3), (4), and (5).
- (2) A file number assigned after January 1, 2004, must include a digit that:
 - (a) is mathematically derived from or related to the other digits of the file number; and
 - (b) aids the filing office in determining whether a number communicated as the file number includes a single-digit or transpositional error.
- (3) Except as otherwise provided in Subsections (4) and (5), the filing office shall:
 - (a) index an initial financing statement according to the name of the debtor and index all filed records relating to the initial financing statement in a manner that associates with one another an initial financing statement and all filed records relating to the initial financing statement; and
 - (b) index a record that provides a name of a debtor which was not previously provided in the financing statement to which the record relates also according to the name that was not previously provided.
- (4) If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, it must be filed for record and the filing office shall index it:
 - (a) under the names of the debtor and of each owner of record shown on the financing statement as if they were the mortgagors under a mortgage of the real property described; and
 - (b) to the extent that the law of this state provides for indexing of records of mortgages under the name of the mortgagee, under the name of the secured party as if the secured party were the mortgagee thereunder, or, if indexing is by description, as if the financing statement were a record of a mortgage of the real property described.
- (5) If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, the filing office shall index an assignment filed under Subsection 70A-9a-514(1) or an amendment filed under Subsection 70A-9a-514(2):
 - (a) under the name of the assignor as grantor; and
 - (b) to the extent that the law of this state provides for indexing a record of the assignment of a mortgage under the name of the assignee, under the name of the assignee, or, if indexing is by description, as if the financing statement were a record of a mortgage of the real property described.
- (6) The filing office shall maintain a capability:

- (a) to retrieve a record by the name of the debtor and:
 - (i) if the filing office is described in Subsection 70A-9a-501(1)(a):
 - (A) by the entry number assigned to the initial financing statement to which the record relates and the book and page that the record was filed or recorded; or
 - (B) by the legal description of the real property; or
 - (ii) if the filing office is described in Subsection 70A-9a-501(1)(b), by the file number assigned to the initial financing statement to which the record relates; and
- (b) to associate and retrieve with one another an initial financing statement and each filed record relating to the initial financing statement.
- (7) The filing office may not remove a debtor's name from the index until one year after the effectiveness of a financing statement naming the debtor lapses under Section 70A-9a-515 with respect to all secured parties of record.
- (8) The filing office shall perform the acts required by Subsections (1) through (5) at the time and in the manner prescribed by filing-office rule, but not later than two business days after the filing office receives the record in question.
- (9) Subsections (2) and (8) do not apply to a filing office described in Subsection 70A-9a-501(1)(a).

Enacted by Chapter 252, 2000 General Session

70A-9a-520 Acceptance and refusal to accept record.

- (1) A filing office shall refuse to accept a record for filing for a reason set forth in Subsection 70A-9a-516(2) or (5) and may refuse to accept a record for filing only for a reason set forth in Subsection 70A-9a-516(2).
- (2) If a filing office refuses to accept a record for filing, it shall communicate to the person that presented the record the fact of and reason for the refusal and the date and time the record would have been filed had the filing office accepted it. The communication must be made at the time and in the manner prescribed by filing-office rule but, in the case of a filing office described in Subsection 70A-9a-501(1)(b), in no event more than two business days after the filing office receives the record.
- (3) A filed financing statement satisfying Subsections 70A-9a-502(1) and (2) is effective, even if the filing office is required to refuse to accept it for filing under Subsection (1). However, Section 70A-9a-338 applies to a filed financing statement providing information described in Subsection 70A-9a-516(2)(e) which is incorrect at the time the financing statement is filed.
- (4) If a record communicated to a filing office provides information that relates to more than one debtor, this part applies as to each debtor separately.
- (5) This section does not apply to a filing office described in Subsection 70A-9a-501(1)(a).

Amended by Chapter 228, 2015 General Session

70A-9a-521 Uniform form of written financing statement and amendment.

- (1) A filing office that accepts written records may not refuse to accept a written initial financing statement in the form and format set forth in the final official text of the 2010 revisions to Article 9 of the Uniform Commercial Code promulgated by The American Law Institute and the National Conference of Commissioners on Uniform State Laws, except for a reason set forth in Subsection 70A-9a-516(2) or (5).
- (2) A filing office that accepts written records may not refuse to accept a written record in the form and format set forth in the final official text of the 2010 revisions to Article 9 of the Uniform Commercial Code promulgated by The American Law Institute and the National Conference

of Commissioners on Uniform State Laws, except for a reason set forth in Subsection 70A-9a-516(2) or (5).

Amended by Chapter 228, 2015 General Session

70A-9a-522 Maintenance and destruction of records.

- (1) The filing office shall maintain a record of the information provided in a filed financing statement for at least one year after the effectiveness of the financing statement has lapsed under Section 70A-9a-515 with respect to all secured parties of record. The record must be retrievable by using the name of the debtor and:
 - (a) if the record was filed or recorded in the filing office described in Subsection 70A-9a-501(1) (a):
 - (i) by using the entry number assigned to the initial financing statement to which the record relates and the book and page that the record was filed or recorded; or
 - (ii) by the legal description of the real property; or
 - (b) if the record was filed in the filing office described in Subsection 70A-9a-501(1)(b), by using the file number assigned to the initial financing statement to which the record relates.
- (2) Except to the extent that a statute governing disposition of public records provides otherwise, the filing office immediately may destroy any written record evidencing a financing statement. However, if the filing office destroys a written record, it shall maintain another record of the financing statement which complies with Subsection (1).

Enacted by Chapter 252, 2000 General Session

70A-9a-523 Information from filing office -- Sale or license of records.

- (1) If a person that files a written record requests an acknowledgment of the filing, the filing office shall send to the person an image of the record showing the number assigned to the record pursuant to Subsection 70A-9a-519(1)(a) and the date and time of the filing of the record. However, if the person furnishes a copy of the record to the filing office, the filing office may instead:
 - (a) note upon the copy the number assigned to the record pursuant to Subsection 70A-9a-519(1) (a) and the date and time of the filing of the record; and
 - (b) send the copy to the person.
- (2) If a person files a record other than a written record, the filing office shall communicate to the person an acknowledgment that provides:
 - (a) the information in the record;
 - (b) the number assigned to the record pursuant to Subsection 70A-9a-519(1)(a); and
 - (c) the date and time of the filing of the record.
- (3) The filing office shall communicate or otherwise make available in a record the following information to any person that requests it:
 - (a) whether there is on file on a date and time specified by the filing office, but not a date earlier than three business days before the filing office receives the request, any financing statement that:
 - (i) designates a particular debtor or, if the request so states, designates a particular debtor at the address specified in the request;
 - (ii) has not lapsed under Section 70A-9a-515 with respect to all secured parties of record; and
 - (iii) if the request so states, has lapsed under Section 70A-9a-515 and a record of which is maintained by the filing office under Subsection 70A-9a-522(1);

- (b) the date and time of filing of each financing statement; and
- (c) the information provided in each financing statement.
- (4) In complying with its duty under Subsection (3), the filing office may communicate information in any medium. However, if requested, the filing office shall communicate information by issuing a record that can be admitted into evidence in the courts of this state without extrinsic evidence of its authenticity.
- (5) The filing office shall perform the acts required by Subsections (1) through (4) at the time and in the manner prescribed by filing-office rule, but in the case of a filing office described in Subsection 70A-9a-501(1)(b) not later than two business days after the filing office receives the request.
- (6) At least weekly, the Division of Corporations and Commercial Code shall offer to sell or license to the public on a nonexclusive basis, in bulk, copies of all records filed in it under this part, in every medium from time to time available to the filing office.
- (7)
 - (a) Subsections (1) through (6) apply only to records filed in the Division of Corporations and Commercial Code.
 - (b) With respect to financing statements filed with a county recorder under this chapter, a county recorder shall provide receipts, acknowledgments of filings and copies, and permit searches of the records of the county recorder's office in the same manner as if the financing statements were records of mortgages.

Enacted by Chapter 252, 2000 General Session

70A-9a-524 Delay by filing office.

Delay by the filing office beyond a time limit prescribed by this part is excused if:

- (1) the delay is caused by interruption of communication or computer facilities, war, emergency conditions, failure of equipment, or other circumstances beyond control of the filing office; and
- (2) the filing office exercises reasonable diligence under the circumstances.

Enacted by Chapter 252, 2000 General Session

70A-9a-525 Fees.

- (1) Except as otherwise provided in Subsection (3), the fee for the Division of Corporations and Commercial Code filing and indexing a record under this part, including an initial financing statement of the kind described in Subsection 70A-9a-502(3), shall:
 - (a) be determined by the Division of Corporations and Commercial Code;
 - (b) be reasonable and fair; and
 - (c) reflect the cost of services provided.
- (2) The fee for the Division of Corporations and Commercial Code responding to a request for information from the Division of Corporations and Commercial Code, including for issuing a record showing whether there is on file any financing statement naming a particular debtor shall:
 - (a) be determined by the Division of Corporations and Commercial Code;
 - (b) be reasonable and fair; and
 - (c) reflect the cost of services provided.
- (3)
 - (a) This section does not require a fee with respect to a record of a mortgage which is effective as a financing statement filed as a fixture filing or as a financing statement covering as-

extracted collateral or timber to be cut under Subsection 70A-9a-502(3). However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

(b)

(i) This section does not apply to fees charged by a filing office described in Subsection 70A-9a-501(1)(a).

(ii) A filing office described in Subsection 70A-9a-501(1)(a) shall charge fees in accordance with Section 17-21-18.5.

Amended by Chapter 46, 2001 General Session

70A-9a-526 Filing-office rules.

(1) The Division of Corporations and Commercial Code shall adopt and publish rules to implement this chapter that apply to a filing office described in Subsection 70A-9a-501(1)(b). The filing-office rules must be:

(a) consistent with this chapter; and

(b) adopted and published in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) To keep the filing-office rules and practices of the filing office in harmony with the rules and practices of filing offices in other jurisdictions that enact substantially this part, and to keep the technology used by the filing office compatible with the technology used by filing offices in other jurisdictions that enact substantially this part, the Division of Corporations and Commercial Code, so far as is consistent with the purposes, policies, and provisions of this chapter, in adopting, amending, and repealing filing-office rules, shall:

(a) consult with filing offices in other jurisdictions that enact substantially this part;

(b) consult the most recent version of the Model Rules promulgated by the International Association of Corporate Administrators or any successor organization; and

(c) take into consideration the rules and practices of, and the technology used by, filing offices in other jurisdictions that enact substantially this part.

Amended by Chapter 382, 2008 General Session